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January 10, 2025

ECF

Hon. Sarah L. Cave
United States Magistrate Judge
United States District Court
Southern District of New York
500 Pearl St.
New York, NY 10007-131

Re: *Cynthia Herrick et al. v. Shutterstock, Inc.*, 1:23-cv-03191-JPC

Dear Magistrate Judge Cave:

Pursuant to the Court’s December 12, 2024 Order (Dkt. 69), Plaintiff Cynthia Herrick (“Plaintiff”), on behalf of herself and all others similarly situated, and Defendant Shutterstock, Inc. (together with Plaintiff, the “Parties”) submit this joint letter to provide an update to the Court on the Parties’ progress on fact discovery and to request an extension of the deadline for the same.

During the last status conference held in this case, on December 12, 2024, the Court extended the deadline for Defendant to substantially complete production of documents resulting from the sampling process for putative class members to January 31, 2025, and ordered the Parties to inform the Court through a joint letter, by January 10, 2025, if they were unable to agree on a sampling procedure. The Parties have since substantially agreed on the sampling procedure and have resolved a number of other issues related to outstanding discovery requests.

Given the nature and volume of the documents resulting from the sampling procedure and that the parties have just agreed on a sampling procedure with Defendant agreeing to start producing those documents prior to the conference on January 27, 2025, however, the Parties believe it would be useful to extend the deadline for Defendant’s production of those documents and the overall fact discovery deadline. Furthermore, as Defendant has informed Plaintiff, Defendant intends to serve narrowly-tailored discovery on a small subset of absent class members in order to collect information relevant to Defendant’s opposition to Plaintiff’s anticipated class certification motion. Plaintiffs may also consider narrowly-tailored third party discovery of Shutterstock’s customers which continued to exploit photos subject to a DMCA takedown request. The Parties are discussing these issues, and hope to resolve them without Court intervention.

To provide time for those discussions and, if necessary, Court resolution of the issue, as well as any other follow-on discovery resulting from production of the sampling documents, the Parties respectfully request that the deadline for substantial completion of production of documents

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resulting from the sampling process be extended by 30 days, from January 31, 2025 to March 3, 2025, and that the fact and expert discovery deadlines be extended by 60 days, which would adjourn the fact discovery deadline from February 28, 2025 to April 29, 2025 and the expert discovery deadline from April 21, 2025 to June 20, 2025 -- with plaintiff's expert disclosure deadline changing from March 7, 2025 to April 6, 2025 and defendant expert disclosure deadline changing from April 11, 2025 to June 10, 2025). The Parties will be prepared to discuss the proposed schedule at the January 27, 2025 conference.

Thank you for the Court's attention to this matter.

Respectfully submitted,

/s/ James Rosenfeld
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Cc: Counsel of record via ECF